A Class Environmental Assessment for Provincial Parks and Conservation Reserves

Summary of Input and MNR Responses on the Annotated Table of Contents (Phase II-a)

April 26, 2001

Ontario

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Introduction

This report provides a summary of comments received as a result of distributing the Annotated Table of Contents (ATC) for the Class EA for Provincial Parks and Conservation Reserves, and briefly discusses how these comments have been addressed in the Draft Class EA. The ATC represented phase II-a in a three step process.

The ATC was posted for public review on the Environmental Registry on September 7, 2000 and was also mailed to 145 agencies, interest groups and individuals. Beginning November 1, 2000, 50 agencies and groups were contacted for follow up.

In total, 19 written responses were received, and meetings and/or telephone discussions were held with 10 groups and agencies to discuss details. These are listed below.

(r) – written response (m) – meeting (t) – telephone discussion

Interest Groups

CELA	Canadian Environmental Law Association (r, m)
CONE	Coalition on the Niagara Escarpment (r)
CPAWS	Canadian Parks & Wilderness Society (Ottawa Valley Chapter) (r)
EN	Environment North (r)
FOCA	Federation of Ontario Cottagers Associations (r, m)
FON	Federation of Ontario Naturalists (m)
HH	Hunting Heritage/Hunting Futures (r)
NOTO	Northern Ontario Tourist Outfitters Association (r)
OFAH	Ontario Federation of Anglers & Hunters (m)
OFMF	Ontario Fur Managers Federation (r)
ORCA	Ontario Recreational Canoeing Association (r)
PPC	Peaceful Parks Coalition (r, m)
SC	Sierra Club of Eastern Canada (m)
SLDF	Sierra Legal Defence Fund (r, m)
WL	Wildlands League (r, m)

Agencies

AFA	Algonquin Forest Authority (r)
CEAA	Canadian Environmental Assessment Agency (r, t)
MMAH	Ontario Ministry of Municipal Affairs and Housing (r)
MOE	Ontario Ministry of the Environment (West Central Region) (r)
MTO	Ontario Ministry of Transportation (r)
ORC	Ontario Realty Corporation (t)
NEC	Niagara Escarpment Commission (r)
PC	Parks Canada (r)

Other Acronyms

ATC	Annotated Table of Contents
ESR	Environmental Study Report

The topics are presented in sections that correspond to the Draft Class EA in order to facilitate easier review. Page references also relate to the Draft Class EA.

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Comments Pertaining to Section 2: Provincial Context

Relationship of Decisions Between Ontario's Living Legacy and the Class EA

Comment:
There may be conflicts between Ontario's Living Legacy Land Use Strategy decisions and commitments and the decision making process under the Class EA. Which will prevail if there is a conflict? (PPC)

Response:
The decision making process and implementation of projects through this Class EA must be consistent with Ontario's Living Legacy Land Use Strategy, where it applies. See Section 2 of the Draft Class EA.

Lands for Life/Ontario's Living Legacy Process and the Class EA

Comment:
When is Ontario Parks considering the "Lands for Life" process to be the "public process" and therefore no EA requirements were necessary? (PPC)

Response:
The Lands for Life/Ontario's Living Legacy process is a higher level process, as described in Section 2 on pages 7 and 8. The resulting Land Use Strategy contains specific direction for some land uses. The list of projects in Appendix 2, beginning on page 47, specifically identifies when and how the consultation and decisions resulting from the land use strategy will be taken into account in this Class EA (refer to the "Notes" column).

Comments Pertaining to Section 3: Projects Subject to this Class EA

Sport Hunting, Mining and the Class EA

Comment:
Will resource extraction in parks such as sport hunting and mining be considered under a Class EA? (PPC)

Response:
Decisions as to whether sport hunting will occur or the making of regulations to establish seasons for hunting and fishing are not the subject matter of the Draft Class EA. However, projects associated with hunting, such as new access roads or new hunting camps, would be covered.

Mining exploration may only be permitted in certain situations as described in the Ontario's Living Legacy Land Use Strategy. Where an amendment to a park or conservation reserve boundary is required to allow disposition of Crown lands under the Mining Act to allow for

mining development, the amendment to remove certain areas would be subject to the Class EA but the mining proposal would not, as it is subject to the Mining Act.

Partnerships

Comment:
Discussion of partnerships should be clarified to specify friends' organizations and other nonprofit community and interest groups. The use of the term "private sector" implies that commercial partnerships are referred to. (PPC)

Projects should be subject to the Class EA regardless of who the proponent is. The proponent can be responsible for the screening process, as long as it is carried out with public scrutiny. (SLDF, CELA, WL, FON)

Response:
The Draft Class EA provides a clearer description of the role of partnerships with both non-profit, non-government groups, and with business, as well as the associated responsibilities (Section 3.4, page 12). For example, when a partner is required to conduct a project evaluation, they would do so under MNR's supervision. This includes conducting processes in a public context with all associated notices and opportunities for participation.

Application of Other Class EAs

Comment:
This Class EA should address all activities, including those covered by other class environmental assessments. For example, transmission lines and roads covered by Hydro and MTO Class EAs should also be included under this Class EA when they occur in a Provincial Park or a Conservation Reserve. The requirements of this Class EA should be added over and above requirements contained in the other Class EAs.

Response:
This matter was carefully considered in light of the potential for overlap of Class EAs and the complex nature of the Class EAs. Section 3.5.1 on page 13 describes how other MNR EA mechanisms relate to this Class EA. Section 3.5.2 on pages 14 and 15 deal with the types of projects that are not intended to meet the objectives of the protected areas program.

As stated on page 15, as a matter of principle, MNR recognizes that greater care should be exercised with respect to protected areas. This section describes additional requirements that would be imposed by MNR when commenting on proposals or processes.

MNR and Municipal Planning

Comment:
The relationship between MNR land use planning initiatives and municipal planning as it relates to the Planning Act and the Provincial Policy Statement (in relation to disposition of Crown cottage lots and small-scale projects) should be clarified (MMAH).

Response:
The relationship to the Planning Act and the Policy Statement has been noted in Section 3.6 on page 15 and Appendix 7 on page 85 of the Draft Class EA. New Crown cottage lots are

not permitted in provincial parks or conservation reserves, by policy. Projects are listed in Appendix 2, beginning on page 47.

Forest Activities in Algonquin Park

Comments:
Support for Section 3.5.2 of ATC confirming that forest activities in Algonquin Park will continue to be covered by the Class EA for Timber Management (AFA).

Response:
Forest activities in Algonquin Park will continue to be covered by the Class EA for Timber Management and directions contained in the Park Management Plan. This topic is now a part of Section 3.5.1 on page 13 and is listed in Appendix 2 on page 51.

Transportation/Aggregate Needs

Comment:
Transportation facility requirements should not be precluded in the Class EA. A process should be developed to balance parks needs with other needs including transportation. A process should be flexible enough to consider issues such as MTO's need for reasonable access to aggregates in protected areas (MTO).

Response:
While this Class EA focuses on projects for the provincial parks and conservation reserves program, we recognize that some projects occur that are not intended to meet program objectives. Sections 3.5.1 and 3.5.2 on pages 13-15 describe how these projects will be treated.

The question of accessing aggregates is a policy matter that lies outside the scope of this Class EA. This is illustrated in Figure 2 on page 8 and described in Appendix 4, beginning on page 63.

References to Other Legislation

Comment:
The Class EA should make reference to other legislation that may apply to projects within the scope of the Class EA, especially the Canadian Environmental Assessment Act and other federal legislation such as the Migratory Birds Act, the Fisheries Act, the Navigable Waters Protection Act, and other legislation (the applicable parts of the Law List Regulation) (CEAA).

Response:
Legislation is referred to in Section 3.6 (page 15) of the Draft Class EA and described further in Appendix 7, beginning on page 79.

CEAA Triggers

Comment:
The Class EA should indicate the triggers that engage the Canadian Environmental Assessment Act (CEAA).

Response:
This information is included in Appendix 7 (pages 79-82) of the Draft Class EA, based on materials provided by the Agency.

Provincial/Federal Harmonization

Comment:
The Class EA should encourage coordination and harmonization between the provincial and federal legislative requirements, and consultation with the federal authorities as early as possible (CEAA).

Response:
This comment has been addressed in Section 3.6 and Appendix 7.

On a general note, harmonization/integration of processes is defined in the Glossary of the Draft Class EA to mean that one or more processes may be carried out as a single process in a way that meets the standards and requirements set out in each process. The intent to harmonize is also noted in other parts of the Draft Class EA, including:

- Section 2.2, integration of planning.
- Section 3.5.1, MNR EA mechanisms.
- Section 3.5.2, Other Agency EA mechanisms.

Niagara Escarpment

Comment:
The Class EA should ensure that the unique relationship between MNR and the NEC is recognized, especially in relation to boundary issues, conformity with the Niagara Escarpment Plan (NEP), public access, increases in visitation and traffic, and the sustainability principles within the NEP and the Niagara Escarpment Planning and Development Act (NEC).

Response:
The Draft Class EA makes specific reference to the Niagara Escarpment Planning and Development Act in Section 3.6 on page 15 and in Appendix 7 on page 85. Resolution of specific issues or concerns will occur on a project by project basis.

Comments Pertaining to Section 4: Class EA Categories and Screening Process

Review of Category A Projects

Comment:
There should be some mechanism for Category A projects where, under very rare situations, they need a more thorough environmental review. (PC)

Response:
Section 4.1.1 on page 17 of the Draft Class EA states that a manager has the option of subjecting a Category A project to screening if it presents some potential for concern.

Level of Detail in Screening

Comment:
Screening should include environmental investigations at a sufficient level of detail, and should include site inspections. (PPC)

Response:
Issues that need to be evaluated in detail will be identified as part of the screening (Section 4.2, Step 3, page 20). Lack of certainty about a potential effect may be a reason for assigning a project to a higher category, as noted in Table 4.2 on page 24.

Screening Criteria

Comment:
Suggest a new screening criterion re: encouragement of entry of harmful alien species through habitat disturbance or exposure. (HH)

Response:
A number of screening criteria, such as those relating to fish, wildlife and fragmentation encompass this issue so no additional criterion has been added.

Canoeists

Comment:
Access by canoeists to all waterways should be maintained, obstructions in waterways should be prevented, only walking trails should be permitted within 200m of a waterway, and wilderness features should be protected. (ORCA)

Response:
The comments noted are normally considered when management direction is prepared for the provincial park or conservation reserve. For instance, in the case of a park, the classification of parks and the designation of zones establish the types of projects that can be pursued.

When a project is being implemented in accordance with this Class EA such concerns are also considered, and where appropriate, measures to mitigate the concern are included.

Section 3.5.1 on page 13 discusses treatment of forest access roads and water crossings. This includes completing a review of the screening criteria in Table 4.1 on page 22, in order to ensure consideration of protected area values such as recreational canoeing.

Pre-determine Category C Projects

Comment:
A list of projects could be provided where the range of effects are often unknown, and which should always be subject to screening. (MOE) Should some undertakings be considered as Category C at all times? (MOE)

Response:
A list of projects has been included in Appendix 2 of the Draft Class EA where screening is required. We expect that certain types of projects will consistently result in a Category C process, however, we felt that it was inappropriate to second guess all of the potential situations and conditions that may exist in each case.

This Class EA is designed on the principle that potential effects can vary depending on the nature of the location and the project. Each may have its own distinctive set of ecological, social or economic considerations. The screening process is intended to identify these potential concerns and to identify an appropriate project evaluation and consultation process for each circumstance.

The experience that will be gained in implementing this Class EA, including screening and applying categories, will be helpful in improving the Class EA when it is reviewed or renewed, as described in Section 6.3 on page 36.

Public Scrutiny of the Screening Process

Comments:
The public should have the opportunity to scrutinize the application of the screening process. (FON, SLDF, WL, CELA, FOCA)

The public should play a major role in deciding whether a project should be subject to an individual EA. (PPC)

Response:
These comments have been taken into account in the Draft Class EA, as follows:

- Screening is part of the public record, as noted in Step 3 on page 20.
- The responsible manager may consult the public as part of the screening process when the level of concern is uncertain (Section 4.3, page 21).
- All Category B/C/D projects have public notification requirements described in Section 5.
- Projects can be elevated from one category to another during the planning process as a result of public concern, as described in Section 5.1, Step 2 (page 26), and in Section 5.2, Step 2 (page 30). Unresolved concerns would be a significant factor in deciding whether to elevate a project to another category.
- The bump up opportunity is included at the end of the project evaluation, illustrated in Figure 5. Section 6.6 on page 38 describes how the bump up process would work and the associated roles.
- Sample public notices are presented in Appendix 9.

Use of a Screening Process

Comment:
A screening process is the most effective way to determine potential for significant effects and the level of assessment required. Need to explain how criteria would be used. Are there triggers that differentiate between B and C undertakings? (MOE)

Response:
The Draft Class EA includes a method for assigning low, medium and high effects (Section 4.3, page 21) for each criterion in Table 4.1, and for assigning projects to categories in the screening process (Section 4.4 and Table 4.2 on pages 22, 23). Appendix 5, beginning on page 73, includes additional considerations for assessing the significance of effects.

Responsibilities for Screening

Comment:
The Class EA should indicate who in MNR is responsible for producing the information required to carry out screening (MMAH).

Response:
The relevant district or zone manager is ultimately responsible for ensuring proper application of the screening process, per step 5 in Section 4.2 (page 20) of the Draft Class EA. This is also included in the sample template on pages 94-95.

Screening to Re-Assign Projects

Comment:
A screening process should be developed and used to decide if a project should be moved from one category to another. It should include a narrative text to describe how the screening process is applied, the criteria to be used, and the appropriate level of assessment. (CEAA, SLDF, WL, CELA, FOCA)

Response:
This comment was based on the idea that all projects would be slotted into a category, on a list in this Class EA and that a screening process could be used to change the category. As discussed previously, this approach was considered in detail, together with the screening method that was adopted in Section 4.2, beginning on page 18.

The screening process presented in Section 4.2 would assign projects to categories B, C or D. Categories may change in response to public and agency input at subsequent steps of the process (Section 5 and 6.6).

Assignment of Projects to Category D

Comments:
The ATC should reflect the approved Terms of Reference, which require identification of projects that require an individual EA. These projects should include forestry, sport hunting, mining exploration, mining development, roads and major development projects such as roofed accommodations, visitor centres, conference centres golf courses and public utilities. Projects not permitted in a particular class or zone should also require an individual EA. These projects require decisions by the Minister of the Environment, formal government review and the added public consultation inherent in an individual EA. (FON, SLDF, WL, CPAWS, CELA, FOCA, PPC, CNE, EN)

The Class EA should identify the projects included in each category. (FON, SLDF, WL, CELA, PPC, FOCA)

(Note: The ATC did not contain a Category D, however, during the consultation meetings, MNR indicated that a Category D would be included in the Draft Class EA)

Response:
During the consultation meetings, we discussed the merits of two basic approaches. One approach uses the screening process to examine potential effects on a case by case basis. The other pre-assigns projects to a specific category. Some groups supported one or the other in recognition of the potential benefits or concerns.

We have carefully considered the concerns that were raised and have weighed the merits of each approach. For the Draft Class EA we have designed a screening process, and a project evaluation and consultation process, that are intended to:

- consider potential effects in a holistic context and on a project by project basis;
- provide an appropriate level of public notification or involvement;
- provide opportunities for appeal;
- provide an appropriate evaluation process and information requirements for the project;
- ensure accountability for decisions;
- ensure protection for the environment while providing the necessary flexibility to implement the protected areas program in an efficient and effective manner.

Category D projects would be assigned through the screening process, or during the project evaluation (illustrated in Figure 5 on page 27), in response to public concern or a need for a more thorough examination. Concerned parties can appeal a decision to proceed under Categories B or C through the bump up procedures described in Section 6.6 beginning on page 38.

Comments Pertaining to Section 5: Project Evaluation and Consultation Processes for Category B and C Projects

Possible Higher Level of Assessment for Category B Projects

Comment:
Not clear who can request or require a higher level of assessment for a Category B project. Shouldn't the Part II Order ("bump up") provision be available as part of the screening process, in keeping with other Class EAs such as the Municipal Engineers Association Class EA? (MOE)

It is unclear as to who decides if a Category B situation moves to a Category C. If concerns are raised by the public that cannot be resolved by MNR staff, then a proposal should automatically move to the next level. (PPC)

Response:
In Section 4.2 of the Draft Class EA, beginning on page 18, screening is the process used to identify the appropriate category for projects that are listed in Appendix 2 as Category B/C/D and for projects that are not listed (i.e., "other" projects).

As illustrated in Figure 5 (page 27) MNR may opt to elevate a project following step 2, as a result of public concern or the need for a greater degree of evaluation. In addition, the public or agencies can also request that a project be elevated, as noted in step 4 on page 28. At this point, bump up provisions are available as described further in Section 6.6 on page 38.

Need to Consider Alternatives for Category B Projects

Comment:
If Category B is to include such projects as major boundary changes or acquisitions, water level management or repairs to water control structures, new trails, and campground upgrading and rehabilitation work, should not alternatives be considered so that environmental effects are compared and a preferred undertaking is selected? This would be in keeping with EA requirements. (MOE)

Response:
Category B projects are similar to Category A projects in their potential for low negative environmental effects. The distinction is that Category B projects may have an element of public concern and therefore a need for a public notice. Category B project evaluations would not normally include formal consideration of alternatives.

The Draft Class EA now lists projects in Appendix 2, beginning on page 47, that can either proceed without further formal evaluation or consultation (Category A) or must be screened to determine the appropriate evaluation and consultation process.

In some instances, alternatives have been evaluated through a previous public planning process such as a management plan.

Submission of Environmental Study Report (ESR) to MOE

Comment:
The ATC states that a completed ESR would be sent to MOE. Clarify the purpose of this step. Should be sent to the appropriate MOE regional office. (MOE)

Response:
A Draft ESR would be circulated to agencies prior to being finalized (see Section 5.2, Step 4 in the Draft Class EA). We concur that the MOE regional offices should be the point of contact—this will be reflected when mailing lists are prepared.

Comments Pertaining to Section 6: Administrative Practices and Procedures

Review of the Class EA

Comments:
The Class EA should require review every five years, not every ten years. (FON, SLDF, WL, CELA)

The review of the renewal one-year ahead of expiry should include public consultation (HH).

Response:
MNR is proposing ten years as the interval for review or renewal of the Class EA. The review would include public consultation (Section 6.3, page 36).

We note that the Municipal Engineers Association Class EA, approved in October 2000, has no expiry date but requires annual review. The merits of this approach have been incorporated into Section 6.1 (page 36) whereby MNR will monitor implementation of the Class EA and report annually on its effectiveness, as well as Section 6.2 with an amendment process. Where appropriate, MNR or any other person may propose amendments to maintain an efficient and effective Class EA. These methods will allow short term needs to be addressed on an ongoing basis. With this approach we feel that a 10-year review or renewal is appropriate.

Comments Pertaining to Appendix 2: List of Projects

Fish Stocking

Comment:
Fish stocking has major impacts and should be in Category C or subject to an individual EA (PPC).

Response:
In the Draft Class EA (page 48, lines 12 and 13 of Appendix 2) supplemental fish stocking (where the species to be stocked is present in and native to the water body) would be Category A since the potential environmental effect is considered to be low. Fish stocking in new waters would be screened and assigned to Category B, C or D.

Access Roads, Fish Stocking

Comments:
Why are access roads and fish stocking considered "small scale projects"? (PPC)

Response:
These projects are currently covered by the "Class Environmental Assessment for Small Scale MNR Projects", which would be replaced by this Class EA where it applies to Provincial Parks and Conservation Reserves. Refer to Appendix 2 beginning on page 47 for the applicable categories (subject to screening where noted) for each type of project.

Land Exchanges and Wildlife

Comment:
The Class EA should include land exchanges, and provide for management of excessively high or nuisance wildlife populations. The exemption of some forms of research should be reconsidered. (HH)

Response:
Land exchanges and wildlife control are provided for in Appendix 2 (items 5, 8, 9, 10, 11 on page 48). Research is exempt from the EA Act and therefore cannot be included in a Class EA. However, as a matter of policy, MNR examines all research proposals for provincial parks and conservation reserves to ensure compliance with regulations and environmental protection principles.

Comments Pertaining to Appendix 3: Policies, Procedures, Guidelines, Standards, Manuals

Inclusion of Guidelines

Comment:
MNR should consider whether Ontario Parks Guidelines for ESR preparation and public planning processes should be in the Class EA. (MOE)

Response:
The Draft Class EA sets out the standards and requirements for project evaluation and consultation processes. MNR expects that the information in this Draft Class EA will have to be supplemented and further interpreted on an ongoing basis as new situations arise, in order to ensure effective and consistent implementation of the Class EA. MNR will continue to use its planning directives, which are updated from time to time, as a means to do this. For example, the current guideline for preparing ESRs will need to be amended to bring it in line with the Class EA. Some of MNR's current directives are listed in Appendix 3, beginning on page 57.

Other Comments

Public Involvement in All Projects

Comment:
The public should be involved throughout the process for all projects, including Category A (for example a small dock may be much more significant in Rondeau than in Killarney Provincial Park). (PPC)

Response:
This Draft Class EA aims to identify the numerous minor projects (Category A on the Appendix 2 list) that would overburden the process if they all required consultation. As noted previously, the screening process enables the evaluation to respond to potential environmental effects and public concerns. To use the example, a boat dock in a less sensitive location might be assigned to a lower category than a similar boat dock in a more sensitive location.

MNR Decision Making

Comment:
MNR staff may base decisions on the need to create revenue, rather than on protecting the natural environment. (PPC)

Response:
The protection and management of provincial parks and conservation reserves is based on a system of planning that results in progressively more detailed decisions (refer to Figure 1, page 8). Projects must be consistent with these higher level directions. For example, projects in provincial parks must be consistent with the Cabinet-approved goal, objectives and principles for the system, as described in Appendix 4 on pages 65-66. Significant projects

are first addressed through a public planning process (such as a management plan). Following this, at the implementation stage, MNR staff consider detailed policies and guidelines that are designed to protect the natural environment. Through the processes outlined in the Draft Class EA a more uniform and transparent process will be used than is currently available under the various EA approval mechanisms it will replace.

Priority for the Natural Environment

Comment:
The purpose of the Class EA should place priority on protection of the natural environment (FOCA, PPC). Social and economic conditions should only be given weight if the project meets ecological criteria. (PPC)

Response:
The purpose of the Class EA (refer to Section 1.1 on page 3) gives priority to protection of provincial park and conservation reserve values and the natural environment. The social and economic environments also form part of the environment as defined by the EA Act. We concur with the fundamental importance of protecting the natural environment, however, we also recognize the dynamic and often complex relationship that social and economic factors can have with protection of parks and conservation reserves.

Hunting, Mineral Exploitation

Comment:
There should be no hunting (FOCA) or mineral exploitation in any protected area, as allowed by Ontario's Living Legacy Land Use Strategy (PPC).

Response:
These issues have been determined by the Ontario's Living Legacy Land Use Strategy and cannot be modified by this Class EA. This Class EA focusses on the implementation of projects that may be permitted in accordance with provincial policies. These are described in Section 2 and illustrated in Figure 2 on page 8.

Significance of Impacts

Comment:
All adverse ecological impacts on a provincial park are important, whatever the classfication of the park or the zoning of the affected area. There should not be built up environments inside parks. Major activities and intensive development such as visitor centres shoud be located outside parks. (PPC)

Response:
The Cabinet-approved Ontario Provincial Parks Policy Statement includes a goal, objectives and principles for the system, as described in Appendix 4 on pages 65-66. These include objectives related to heritage appreciation, recreation, and tourism. The development and provision of facilities has been an appropriate means to achieving these objectives. This Draft Class EA is intended to ensure that projects are implemented in an environmentally sound manner.